

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
FIRST SPECIAL SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Friday
May 20, 2005

Senate called to order by President Beth Edmonds of Cumberland County.

Prayer by Reverend Dr. Susan E. Crane of the Henderson Memorial Baptist Church of Farmington.

REVEREND CRANE: Let us pray. Oh Lord, our God, maker of heaven and earth, we praise Your holy name. We know, Lord, You are with us always, but sometimes we don't stop long enough to listen for Your voice. Thank You for Your goodness, Lord, and please be among us today as we seek to do what is right and good for all Your people. Help us to be especially mindful of those who feel ignored by a world that rushes on. Be near to those who call upon Your name this day. May we be the instruments by which the hopelessness of poverty and injustice are somehow overcome.

Bless, oh Lord, these legislators, these humble servants, in whom the people of Maine have put their trust. Give them ears to hear, eyes to see, and hearts to respond with compassion. Give them wisdom, oh Lord, for all the complex problems they will face together this day and where there are differences of opinion, build among them bridges of peace and understanding.

We remember with gratitude the men and women of our armed forces who risk their lives for freedom today, at home and around the world. We pray for the day when all the world's people will dwell together in peace and without fear.

It is a wonderful blessing, Lord, to live in this beautiful State of Maine. Enable us, we pray, to be good stewards of all You have entrusted to our care. Now we think You, our God, and praise Your glorious name. Amen.

Reading of the Journal of Thursday, May 19, 2005.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act Regarding the Unused Pharmaceutical Disposal Program" (EMERGENCY)

S.P. 609 L.D. 1644

In Senate, May 5, 2005, **PASSED TO BE ENGROSSED.**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-426)**, in **NON-CONCURRENCE.**

On motion by Senator **MAYO** of Sagadahoc, the Senate **RECEDED** and **CONCURRED.**

COMMUNICATIONS

The Following Communication: S.C. 324

**MAINE STATE LEGISLATURE
COMMITTEE ON LABOR
AUGUSTA, MAINE 04333**

May 16, 2005

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Labor has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 485 An Act To Prohibit Permanent Replacement Workers
- L.D. 996 Resolve, Establishing the Commission To Study Medical Expenses Under the Maine Workers' Compensation Act of 1992
- L.D. 1486 An Act To Amend the Law Allowing Legislative Staff To Unionize
- L.D. 1570 An Act To Require Random Drug Testing for Emergency Vehicle Operators

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Ethan Strimling
Senate Chair

S/Rep. William J. Smith
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 325

**MAINE STATE LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES
AUGUSTA, MAINE 04333**

May 17, 2005

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Health and Human Services has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 655 An Act Allowing for a Contracted Case Manager in Certain Child Welfare Cases
- L.D. 1307 An Act Requiring Public Disclosure of Health Care Prices
- L.D. 1417 An Act To Amend the Law Banning Smoking in Buildings Where Bingo or Beano Is Played

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Arthur F. Mayo, III
Senate Chair

S/Rep. Hannah Pingree
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 326

**MAINE STATE LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS
AUGUSTA, MAINE 04333**

May 17, 2005

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Education and Cultural Affairs has voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 1661 An Act To Streamline Higher Education in Maine

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Elizabeth H. Mitchell
Senate Chair

S/Rep. Jacqueline Norton
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 327

**MAINE STATE LEGISLATURE
COMMITTEE ON LABOR
AUGUSTA, MAINE 04333**

May 17, 2005

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Labor has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 215 An Act To Clarify National Labor Relations Board Certification under the Overtime Provisions
- L.D. 583 An Act To Amend the Law Regarding the Use of "Hearing Dogs" by Deaf and Hard-of-hearing Persons
- L.D. 1269 An Act To Change the Retirement Eligibility Requirements for Investigators in the Office of the Attorney General and the Department of the Secretary of State

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Ethan Strimling
Senate Chair

S/Rep. William J. Smith
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 328

**MAINE STATE LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS' AFFAIRS
AUGUSTA, MAINE 04333**

May 17, 2005

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Legal and Veterans Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 383 An Act To Ban Government Conflict of Interest in Elections
- L.D. 765 An Act Requiring That Contributions for a Clean Election Candidate Be from the Candidate's Political Party
- L.D. 822 An Act Regarding Fundraising for Clean Election and Traditional Candidates in Leadership Races
- L.D. 882 An Act To Ensure Fair Distribution of Matching Funds under the Maine Clean Election Act
- L.D. 1257 Resolve, Authorizing Dominic LaJoie To Sue the Department of Agriculture, Food and Rural Resources
- L.D. 1274 An Act To Allow Indian Tribes To Operate Slot Machines
- L.D. 1292 Resolve, To Study the Citizen Initiative Process
- L.D. 1388 An Act To Amend Maine Election Law by Instituting a Statewide Vote-by-mail System
- L.D. 1399 An Act To Increase College Scholarships

L.D. 1436 An Act To Encourage a Vote-by-Mail System in Maine

L.D. 1514 An Act To Enhance the Transparency of Maine's Elections

L.D. 1562 An Act To Create Optional Public Financing of Legislative Leadership Elections

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Kenneth T. Gagnon
Senate Chair

S/Rep. John L. Patrick
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 329

**MAINE STATE LEGISLATURE
COMMITTEE ON INSURANCE AND FINANCIAL SERVICES
AUGUSTA, MAINE 04333**

May 19, 2005

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Insurance and Financial Services has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1108 An Act To Protect Maine Foster and Adoptive Parents

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Nancy B. Sullivan
Senate Chair

S/Rep. Anne C. Perry
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bill out "Ought Not to Pass":

The Following Communication: S.C. 330

**MAINE STATE LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT
AUGUSTA, MAINE 04333**

May 16, 2005

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on State and Local Government has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1624 An Act To Require State-owned and State-leased Property To Be Cleaned with Products That Are Not Harmful to the Environment or People

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Elizabeth M. Schneider
Senate Chair

S/Rep. Christopher R. Barstow
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 331

**MAINE STATE LEGISLATURE
COMMITTEE ON TAXATION
AUGUSTA, MAINE 04333**

May 19, 2005

Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

L.D. 328 An Act To Enhance the Maine Earned Income Tax Credit

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Joseph C. Perry
Senate Chair

S/Rep. Richard G. Woodbury
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

ORDERS OF THE DAY

Unfinished Business

The following matter in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (4/12/05) Assigned matter:

JOINT RESOLUTION - memorializing Jeanne Clifford Delahanty, formerly of Lewiston and Schooner Retirement Community in Auburn

SLS 260

Tabled - April 12, 2005, by Senator **BRENNAN** of Cumberland

Pending - motion by Senator **ROTUNDO** of Androscoggin to **ADOPT**

(In Senate, April 12, 2005, on motion by Senator **ROTUNDO** of Androscoggin, **READ.**)

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. Jeanne Clifford Delahanty was part of a family that has produced some of the most distinguished lawyers and judges we have ever had in the State of Maine. As mother, sister, niece, aunt, cousin, daughter, wife, and godmother she helped nurture these exceptional judges and lawyers and played an important and vital role in her family's significant contributions to the state. We're grateful for the many ways Mrs. Delahanty enriched the lives of Maine's citizens. We will miss her and offer her family our deep sympathy for their loss. Thank you.

On motion by Senator **ROTUNDO** of Androscoggin, **ADOPTED**.

Sent down for concurrence.

THE PRESIDENT: The Chair would like to recognize in the rear of the Chamber the family of Mrs. Jeanne Clifford Delahanty. Would they please rise and accept our condolences and appreciation.

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, Regarding Legislative Review of Portions of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 97 - Private Non-Medical Institution Services, a Major Substantive Rule of the Department of Health and Human Services (EMERGENCY)

H.P. 1143 L.D. 1620

Reported that the same **Ought to Pass**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, Regarding Legislative Review of Chapter 270: Uniform Reporting System for Quality Data Sets, a Major Substantive Rule of the Maine Health Data Organization (EMERGENCY)

H.P. 1144 L.D. 1621

Reported that the same **Ought to Pass**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Relieve Small Payroll Companies from Excessive Regulation" (EMERGENCY)
H.P. 466 L.D. 633

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-417)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-417)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-417) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Amend Dental Hygienist Licensing Requirements"

H.P. 962 L.D. 1385

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-418)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-418)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-418) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Protect Public Health by Clarifying the Laws Regarding Smoking in Public Places"

H.P. 799 L.D. 1156

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-421)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-421)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-421) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Maine Health Data Organization Statutes and To Extend the Operation of the Maine Health Data Processing Center"

H.P. 942 L.D. 1359

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-422)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-422)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-422) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Permit the Department of Health and Human Services To Charge Fees to Homestead Facility Residents"

H.P. 1049 L.D. 1492

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-423)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-423)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-423) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Resolve, Regarding Legislative Review of Portions of Chapter 301: Standard Offer Service, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY)

H.P. 969 L.D. 1392

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-420)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-420)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-420) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Subject Prepaid Wireless Telephone Service to E-9-1-1 Funding Requirements"

H.P. 982 L.D. 1418

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-419)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-419)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-419) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Off Record Remarks

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Require Notice of Clinical Trials"
H.P. 505 L.D. 710

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-381)**.

Signed:

Senators:

MAYO of Sagadahoc
MARTIN of Aroostook

Representatives:

PINGREE of North Haven
WALCOTT of Lewiston
GROSE of Woolwich
WEBSTER of Freeport
MILLER of Somerville
BURNS of Berwick
CAMPBELL of Newfield

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass.**

Signed:

Senator:

ROSEN of Hancock

Representatives:

SHIELDS of Auburn
LEWIN of Eliot
GLYNN of South Portland

(Representative SOCKALEXIS of the Penobscot Nation - of the House - supports the Majority **Ought To Pass as Amended** Report.)

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-381).**

Reports **READ.**

Senator **MAYO** of Sagadahoc moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Divided Report

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Improve the Water Quality of Hall Pond in Paris"

H.P. 306 L.D. 421

Reported that the same **Ought to Pass.**

Signed:

Senator:

WOODCOCK of Franklin

Representatives:

WATSON of Bath
LUNDEEN of Mars Hill
WHEELER of Kittery
CEBRA of Naples
TRAHAN of Waldoboro
RICHARDSON of Greenville
RICHARDSON of Carmel

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass.**

Signed:

Senator:

BRYANT of Oxford

Representatives:

MOODY of Manchester
BRYANT of Windham
JACKSON of Fort Kent

Comes from the House with the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED.**

Reports **READ.**

Senator **BRYANT** of Oxford moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE.**

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE.**

Senate

Ought to Pass As Amended

Senator BROMLEY for the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Amend the Law Governing the Licensure of Interpreters for the Deaf and Hard-of-hearing"

S.P. 467 L.D. 1340

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-216).**

Report **READ** and **ACCEPTED.**

READ ONCE.

Committee Amendment "A" (S-216) **READ** and **ADOPTED.**

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Increase Access to Dental Care by Accepting All Regional Board Examinations for Initial Licensure of Dentists"

S.P. 334 L.D. 994

Reported that the same **Ought Not to Pass.**

Signed:

Senators:

BROMLEY of Cumberland
HOBBINS of York

Representatives:

SMITH of Monmouth
O'BRIEN of Lewiston
AUSTIN of Gray
ROBINSON of Raymond
RECTOR of Thomaston
FARRINGTON of Gorham
BEAUDETTE of Biddeford
JACOBSEN of Waterboro
CROSBY of Topsham

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-215).**

Signed:

Senator:

DOW of Lincoln

Representative:

BERUBE of Lisbon

Reports **READ.**

On motion by Senator **HOBBINS** of York, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED.**

Sent down for concurrence.

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Prohibit Same-day Voter Registration"

S.P. 90 L.D. 270

Reported that the same **Ought Not to Pass.**

Signed:

Senators:

GAGNON of Kennebec
MITCHELL of Kennebec

Representatives:

FISHER of Brewer
VALENTINO of Saco
PATRICK of Rumford
TUTTLE of Sanford
MOORE of Standish
BLANCHETTE of Bangor
BROWN of South Berwick

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-217).**

Signed:

Senator:

PLOWMAN of Penobscot

Representatives:

OTT of York
PINKHAM of Lexington Township
HOTHAM of Dixfield

(Representative MOORE of the Passamaquoddy Tribe - of the House - supports the Majority **Ought Not To Pass** Report.)

Reports **READ.**

Senator **GAGNON** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

All matters thus acted upon were ordered sent down forthwith for concurrence.

SECOND READERS

The Committee on **Bills in the Second Reading** reported the following:

House

Bill "An Act To Recognize the Federal Salary Level for Overtime When Higher than the State Level"

H.P. 165 L.D. 214

Bill "An Act To Increase County Filing Fees"

H.P. 745 L.D. 1092

READ A SECOND TIME and **PASSED TO BE ENGROSSED**, in concurrence.

House As Amended

Bill "An Act To Prohibit the Issuance of a Driver's License to an Undocumented Illegal Alien"

H.P. 540 L.D. 763
(C "A" H-368)

Bill "An Act To Create Freedom of Citizen Information Regarding Ballot Questions and Political Action Committees"

H.P. 648 L.D. 929
(C "A" H-412)

Resolve, To Increase Small Business Access to State Contracts

H.P. 699 L.D. 1015
(C "A" H-400)

Bill "An Act To Increase Faculty in Maine Nursing Education Programs"

H.P. 1051 L.D. 1494
(C "A" H-401)

Resolve, Regarding Legislative Review of Portions of Chapter 2: Aquaculture Lease Regulations - Lighting Standards and Noise Standards, a Major Substantive Rule of the Department of Marine Resources (EMERGENCY)

H.P. 1142 L.D. 1619
(C "A" H-408)

READ A SECOND TIME and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Bill "An Act To Exempt Military Pensions for Future Military Retirees from State Income Tax"

H.P. 682 L.D. 972
(S "A" S-214 to C "A" H-191)

READ A SECOND TIME and **PASSED TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

Senate As Amended

Resolve, To Improve Medical Eligibility Assessments for Long-term Care Consumers

S.P. 171 L.D. 545
(C "A" S-209)

Resolve, Regarding the No Child Left Behind Act of 2001

S.P. 212 L.D. 676
(C "A" S-200)

Bill "An Act To Amend the Maine Consumer Credit Code - Credit Services Organizations"

S.P. 222 L.D. 686
(C "A" S-198)

Resolve, Directing the Plumbers' Examining Board To Adopt the International Plumbing Code

S.P. 373 L.D. 1056
(C "B" S-132)

Bill "An Act To Promote Economic Development in Commercial and Downtown Areas of the State" (EMERGENCY)

S.P. 463 L.D. 1336
(C "A" S-204)

Bill "An Act To Protect Use of Municipal Seals"

S.P. 479 L.D. 1380
(C "A" S-202)

Bill "An Act Regarding National Forests"

S.P. 484 L.D. 1395
(C "A" S-212)

Bill "An Act To Provide an Annual Cost-of-living Adjustment for Persons Receiving Workers' Compensation Benefits for Total Incapacity"

S.P. 501 L.D. 1476
(C "A" S-176)

Bill "An Act Regarding Licensing Boards"

S.P. 505 L.D. 1480
(C "A" S-208)

Bill "An Act To Amend the Laws Governing Reimbursement of Nursing Facilities and Nursing Home Admission Contracts"

S.P. 509 L.D. 1483
(C "A" S-211)

Bill "An Act Pertaining to Reporting of Prescription Drug Advertising Costs"

S.P. 534 L.D. 1539
(C "A" S-210)

Bill "An Act Regarding the Commission on Governmental Ethics and Election Practices" (EMERGENCY)

S.P. 573 L.D. 1599
(C "A" S-205)

Resolve, To Establish a Commission To Evaluate Criteria for Siting Agency Liquor Stores

S.P. 574 L.D. 1600
(C "A" S-206)

Bill "An Act To Establish Harbor Master Standards and Training Requirements"

S.P. 584 L.D. 1603
(C "A" S-207)

READ A SECOND TIME and **PASSED TO BE ENGROSSED AS AMENDED**.

Sent down for concurrence.

Senator **DAVIS** of Piscataquis was granted unanimous consent to address the Senate off the Record.

Senator **BRENNAN** of Cumberland was granted unanimous consent to address the Senate off the Record.

On motion by Senator **BRENNAN** of Cumberland,
RECESSED until 11:00 in the morning.

After Recess

Senate called to order by the President.

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency Measure

An Act To Amend the Motor Vehicle Laws Relating to the Assignment of Security Interests

S.P. 554 L.D. 1576
(C "A" S-185)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with no Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, To Alleviate the Negative Impact of Certain Taxes on Hospitals and Private Nonmedical Institutions

S.P. 278 L.D. 839
(C "A" S-180)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Acts

An Act To Monitor and Maintain Maximum Levels of Assistance in the General Assistance Program

S.P. 114 L.D. 367

An Act To Exempt Maine Agricultural Fairs from the Requirements of the Site Location of Development Laws

S.P. 203 L.D. 648
(C "A" S-151)

An Act To Designate the Department of Health and Human Services as the Official State Agency Responsible for Programs for Persons Affected by Brain Injury

S.P. 239 L.D. 741
(C "A" S-171)

An Act To Postpone the Repeal Date on Nonhospital Expenditures in the Capital Investment Fund

S.P. 240 L.D. 742
(C "A" S-179)

An Act To Amend the Laws Governing the Department of Labor's Construction Industry Wage and Hour Survey

S.P. 318 L.D. 943
(C "A" S-177)

An Act To Restore Municipal Authority To Review Development Using Flexible Standards

S.P. 331 L.D. 991
(C "A" S-174)

An Act To Authorize Exemptions for Montessori Schools from Certain Requirements

S.P. 354 L.D. 1037
(C "A" S-178)

An Act Directing the State Planning Office To Study Municipal Capabilities To Become Providers of Internet Services

S.P. 392 L.D. 1128
(C "A" S-162)

An Act Regarding Shellfish Harvesting

S.P. 429 L.D. 1250
(C "A" S-170)

An Act To Amend the Lobster Fishing Laws of Maine

S.P. 526 L.D. 1510
(C "A" S-183)

An Act Concerning Storm Water Management

S.P. 542 L.D. 1558
(C "A" S-184)

PASSED TO BE ENACTED and having been signed by the President were presented by the Secretary to the Governor for his approval.

An Act To Amend the Law Regarding Resale Certificates

H.P. 120 L.D. 169
(S "B" S-122 to C "A" H-78)

On motion by Senator **ROTUNDO** of Androscoggin, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

On motion by Senator **HOBBS** of York, the Senate **RECEDED** and **CONCURRED**.

An Act To Establish the Homeland Security Relief Fund
S.P. 387 L.D. 1125
(C "A" S-140)

Out of order and under suspension of the Rules, the Senate considered the following:

On motion by Senator **ROTUNDO** of Androscoggin, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Protect the Integrity of Maine State Housing Authority Funds"
H.P. 1009 L.D. 1445

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-429)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-429)**.
Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-429) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

An Act To Protect Incompetent Dependents
H.P. 795 L.D. 1152
(C "A" H-324)

On motion by Senator **ROTUNDO** of Androscoggin, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

Resolve

Resolve, Preventing the Upstream Migration of Exotic Species past the Fish River Falls and into the Fish River Watershed
S.P. 502 L.D. 1477
(C "A" S-169)

FINALLY PASSED and having been signed by the President was presented by the Secretary to the Governor for his approval.

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Allow the Use of All Muzzle-loading Firearms during Muzzle-loading Deer Season"
H.P. 884 L.D. 1287

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-433)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-433)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-433) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Provide an Exemption from Discrimination Laws to Fitness Centers"
S.P. 92 L.D. 272

Majority - **Ought Not to Pass** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-137)** (3 members)

In Senate, May 18, 2005, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-137)**.

Comes from the House, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

The Committee on **LABOR** on Bill "An Act To Enhance Workplace Safety and Health through Substance Abuse Testing and Treatment"

H.P. 944 L.D. 1361

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-428).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-428).**

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-428) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **LABOR** on Bill "An Act To Give Retirement Credits to Judges Who Have Served in the Legislature"

H.P. 1033 L.D. 1470

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-427).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-427).**

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-427) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Implement the Fund for the Efficient Delivery of Local and Regional Services"

H.P. 1155 L.D. 1637

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-432).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-432).**

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-432) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

All matters thus acted upon were ordered sent down forthwith for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency Resolve

Resolve, Establishing the Commission on Maximum Hospital Charges for Workers' Compensation

H.P. 635 L.D. 916
(C "A" H-338)

On motion by Senator **MARTIN** of Aroostook, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in concurrence.

Emergency Resolve

Resolve, Regarding Legislative Review of Chapter 100: Enforcement Procedures, a Major Substantive Rule of the Maine Health Data Organization

H.P. 966 L.D. 1389

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 127: New Motor Vehicle Emission Standards, a Major Substantive Rule of the Bureau of Air Quality
H.P. 1028 L.D. 1465
(C "A" H-361)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with 1 Senator having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 306: Uniform Information Disclosure and Informational Filing Requirements, a Major Substantive Rule of the Public Utilities Commission
H.P. 1137 L.D. 1610

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Acts

An Act To Require That Licensed Pastoral Counselors Be Recognized as Licensed Professionals for Purposes of Insurance Reimbursement
H.P. 30 L.D. 27

An Act To Require That Mental Health Workers with Family Therapist Licenses Be Recognized as Licensed Professionals for Purposes of Insurance Reimbursement
H.P. 31 L.D. 28

An Act To Plan for a Pilot Program for Distributing Unopened Medicines and Medical Supplies
H.P. 105 L.D. 129
(C "A" H-347)

An Act To Promote the Uniform Implementation of the Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas
H.P. 139 L.D. 188
(C "A" H-371)

PASSED TO BE ENACTED and having been signed by the President were presented by the Secretary to the Governor for his approval.

An Act To Amend the Laws Governing the Funding of State Special Elections
H.P. 66 L.D. 70
(C "A" H-354)

On motion by Senator **MARTIN** of Aroostook, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Protect the Public from Secondhand Smoke"
H.P. 1031 L.D. 1468

Reported that the same **Ought Not to Pass**.

Signed:

Senators:
MAYO of Sagadahoc
MARTIN of Aroostook
ROSEN of Hancock

Representatives:
PINGREE of North Haven
GROSE of Woolwich
WEBSTER of Freeport
MILLER of Somerville
BURNS of Berwick
SHIELDS of Auburn
CAMPBELL of Newfield
LEWIN of Eliot
GLYNN of South Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass**.

Signed:

Representative:
WALCOTT of Lewiston

(Representative SOCKALEXIS of the Penobscot Nation - of the House - supports the Majority **Ought Not To Pass** Report.)

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

On motion by Senator **MAYO** of Sagadahoc, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Acts

An Act To Reduce Costs Caused by New Procedure Changes for Health Care Providers

H.P. 355 L.D. 480
(C "A" H-341)

An Act To Assist Municipal Implementation and Enforcement of Storm Water Management Programs

H.P. 441 L.D. 608

An Act Regarding New Motor Vehicle Emission Standards

H.P. 448 L.D. 615
(C "A" H-337)

An Act Regarding Possession of Prescription Drugs

H.P. 463 L.D. 630
(C "A" H-358)

PASSED TO BE ENACTED and having been signed by the President were presented by the Secretary to the Governor for his approval.

An Act To Change the Child Care Facility Licensing Laws

H.P. 272 L.D. 359
(C "A" H-346)

On motion by Senator **MARTIN** of Aroostook, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

Off Record Remarks

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Acts

An Act To Amend Laws Pertaining to Commercial Fishing and Baitfish

H.P. 518 L.D. 723
(C "A" H-352)

An Act To Require the Disclosure of Certain Financial Information from Hospitals and Their Affiliates

H.P. 520 L.D. 725
(C "A" H-339)

An Act To Discourage Further the Sale of Tobacco to Minors

S.P. 293 L.D. 885
(C "A" S-172)

An Act To Amend the Law Regarding State Milk Payments

H.P. 723 L.D. 1070

PASSED TO BE ENACTED and having been signed by the President were presented by the Secretary to the Governor for his approval.

An Act To Require Fair and Timely MaineCare Payments to Hospitals

S.P. 214 L.D. 678
(C "A" S-181)

Senator **MARTIN** of Aroostook moved the Bill and accompanying papers be placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

Senator **PLOWMAN** of Penobscot **OBJECTED**.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

Senator **DAVIS** of Piscataquis moved to **TABLE** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

Senate at Ease.

Senate called to order by the President.

On motion by Senator **MARTIN** of Aroostook, **TABLED** until 11:47 in the morning, pending **ENACTMENT**, in concurrence.

ROLL CALL (#146)

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Create an Academic Bill of Rights" H.P. 823 L.D. 1194

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

- MITCHELL of Kennebec
- SCHNEIDER of Penobscot
- TURNER of Cumberland

Representatives:

- NORTON of Bangor
- DAVIS of Falmouth
- FINCH of Fairfield
- GOLDMAN of Cape Elizabeth
- STEDMAN of Hartland
- MAKAS of Lewiston
- CAIN of Orono
- MERRILL of Appleton

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-416)**.

Signed:

Representatives:

- EDGECOMB of Caribou
- LANSLEY of Sabattus

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

Senator **MITCHELL** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

YEAS: Senators: BARTLETT, BRENNAN, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, PERRY, SCHNEIDER, STRIMLING, SULLIVAN, TURNER, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWEMELLO, WESTON, WOODCOCK

ABSENT: Senators: BROMLEY, NUTTING, ROTUNDO

17 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **MITCHELL** of Kennebec to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

Senate

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Ensure Access to Swing Beds in Hospitals"

S.P. 225 L.D. 688

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

- MAYO of Sagadahoc
- MARTIN of Aroostook
- ROSEN of Hancock

Representatives:

- PINGREE of North Haven
- WALCOTT of Lewiston
- GROSE of Woolwich
- WEBSTER of Freeport
- MILLER of Somerville
- BURNS of Berwick
- SHIELDS of Auburn
- CAMPBELL of Newfield
- LEWIN of Eliot

The Minority of the same Committee on the same subject reported that the same **Ought To Pass**.

Signed:

Representative:
GLYNN of South Portland

(Representative SOCKALEXIS of the Penobscot Nation - of the House - supports the Majority **Ought Not To Pass** Report.)

Reports **READ**.

On motion by Senator **MAYO** of Sagadahoc, the Majority **UGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Acts

An Act To Authorize the Department of Professional and Financial Regulation To Develop a Model for Registration of Home Building and Improvement Contractors

H.P. 903 L.D. 1306
(C "A" H-257)

An Act To Conform the Remedies under the Maine Family Medical Leave Requirements with Those Available under Federal Law

H.P. 977 L.D. 1413
(C "A" H-348)

An Act To Update the Membership of Certain Professional Licensing Boards

H.P. 1034 L.D. 1471
(C "A" H-356)

PASSED TO BE ENACTED and having been signed by the President were presented by the Secretary to the Governor for his approval.

Off Record Remarks

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and 11:47 a.m. Assigned matter:

An Act To Require Fair and Timely MaineCare Payments to Hospitals

S.P. 214 L.D. 678
(C "A" S-181)

Tabled - May 20, 2005, by Senator **MARTIN** of Aroostook

Pending - **ENACTMENT**, in concurrence

(In House, May 18, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-181)**.)

(In Senate, May 20, 2005, Senator **MARTIN** of Aroostook moved the Bill and accompanying papers be placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence. Subsequently, Senator **PLOWMAN** of Penobscot **OBJECTED**.)

Senator **PLOWMAN** of Penobscot was granted unanimous consent to address the Senate off the Record.

Senator **MARTIN** of Aroostook was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator **DAVIS** of Piscataquis was granted unanimous consent to address the Senate off the Record.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Aroostook, Senator Martin to Place the Bill and accompanying papers on the Special Appropriations Table pending Enactment, in concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#147)

YEAS: Senators: BARTLETT, BRENNAN, BRYANT, CLUKEY, COURTNEY, COWGER, DAMON, DAVIS, DIAMOND, GAGNON, HASTINGS, HOBBS, MARTIN, MAYO, MILLS, MITCHELL, NASS, PERRY, RAYE, ROSEN, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, DOW, PLOWMAN

ABSENT: Senators: BROMLEY, NUTTING, ROTUNDO

29 Senators having voted in the affirmative and 3 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **MARTIN** of Aroostook to place the Bill and accompanying papers on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence, **PREVAILED**.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Resolves

Resolve, Regarding the Certificate of Need Process
H.P. 19 L.D. 16
(C "A" H-344)

Resolve, To Require the Department of Health and Human Services To Adopt Rules Regarding Accrual of Cost Savings
H.P. 56 L.D. 60
(C "A" H-357)

Resolve, To Require the Department of Health and Human Services To Amend Rules Regarding Licensing of Intermediate Care Facilities for Mental Retardation
H.P. 284 L.D. 382
(C "A" H-342)

Resolve, Regarding Responsible Management of Point-of-sale Marketing Materials for Tobacco Products
H.P. 408 L.D. 553
(C "A" H-343)

Resolve, Regarding Nonnative Invasive Marine Species
H.P. 487 L.D. 667
(C "A" H-360)

FINALLY PASSED and having been signed by the President were presented by the Secretary to the Governor for his approval.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Resolves

Resolve, To Examine Smoking Cessation Programs for Maine's Youth
H.P. 546 L.D. 769
(C "A" H-345)

Resolve, Promoting the Consumption of Maine Farm Products at the State House
H.P. 1017 L.D. 1452
(C "A" H-340)

FINALLY PASSED and having been signed by the President were presented by the Secretary to the Governor for his approval.

Resolve, To Raise a Monument for Women Veterans of Maine
H.P. 588 L.D. 829
(C "A" H-353)

On motion by Senator **GAGNON** of Kennebec, placed on the **SPECIAL STUDY TABLE**, pending **FINAL PASSAGE**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **MARINE RESOURCES** on Bill "An Act To Require Noncommercial Lobster Fishing License Holders To Participate in the Conservation Efforts of the Commercial Lobster Industry"
H.P. 849 L.D. 1231

Reported that the same **Ought Not to Pass**.

Signed:

Senators:
DAMON of Hancock
SULLIVAN of York
ANDREWS of York

Representatives:
FLETCHER of Winslow
KAELIN of Winterport
DUGAY of Cherryfield
CRESSEY of Cornish
ASH of Belfast
EDER of Portland
ADAMS of Portland
SEAVEY of Kennebunkport

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-405)**.

Signed:

Representatives:
EMERY of Cutler
PERCY of Phippsburg

Comes from the House with the Majority **OUGHT NOT TO PASS**
Report **READ** and **ACCEPTED**.

Reports **READ**.

On motion by Senator **DAMON** of Hancock, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Amend Procedures Used in Criminal Proceedings in Which the Victim Is Mentally Disabled"
H.P. 1187 L.D. 1679

Comes from the House, **REFERRED** to the Committee on **JUDICIARY** and ordered printed.

On motion by Senator **HOBBS** of York, **REFERRED** to the Committee on **JUDICIARY** and ordered printed, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Adopt the Municipal Secession and Annexation Procedure for the Town of Islesboro"
H.P. 995 L.D. 1431

Reported that the same **Ought Not to Pass**.

Signed:

Senators:
SCHNEIDER of Penobscot
ROTUNDO of Androscoggin
ANDREWS of York

Representatives:
BARSTOW of Gorham
HARLOW of Portland
CROSTHWAITE of Ellsworth
SAMPSON of Auburn
BLANCHARD of Old Town

MUSE of Fryeburg

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-431)**.

Signed:

Representatives:
McFADDEN of Dennysville
MOULTON of York
BISHOP of Boothbay
SCHATZ of Blue Hill

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

On motion by Senator **SCHNEIDER** of Penobscot, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Prohibit the Sale and Use of Vaporized Alcohol and Alcohol Vaporizing Devices"
H.P. 798 L.D. 1155

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-413)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-413)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-413) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Require Notice of Clinical Trials"

H.P. 505 L.D. 710

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-381)** (9 members)

Minority - **Ought Not To Pass** (4 members)

Tabled - May 20, 2005, by Senator **MAYO** of Sagadahoc

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

(In House, May 19, 2005, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-381)**.)

(In Senate, May 20, 2005, Reports **READ**.)

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Rosen.

Senator **ROSEN:** Thank you, Madame President and members of the Senate. The bill that is before us has been changed. The majority report and the amendment is now the bill. It is now a resolve that directs the Department of Health and Human Services to begin to involve itself in the realm of clinical trials of pharmaceutical testing for the development of pharmaceutical drugs on a worldwide basis. It requires that the Department of Health and Human Services shall study the accessibility of information regarding the results of certain clinical trials of pharmaceuticals, treatment options, medical devices, and the enrollment of certain persons in those trials. The study must include a review of registration of clinical trials with a website developed by the National Library of Medicine as a service to the United States National Institutes of Health and human volunteers and access to the results of those trials for physicians, healthcare providers, and the public.

Ladies and gentlemen, this is certainly a well-intentioned idea. I think that the sponsor's heart probably is, I'm sure, in the right place. The only question that we're presenting to you today is whether or not this is an assignment that is reasonable for the legislature of this state to place on the Department of Health and Human Services at this time. This begins to move the State of Maine into a realm that is under the purview of the Federal Drug Administration, the FDA. The federal government has always dealt with the review of clinical trials, the licensing of pharmaceuticals, and the decision as to whether or not products go forward. The committee did not hear a problem in this state with individuals that participate in clinical trials, that they had experienced any problems or difficulties. There is a very lengthy exhaustive process that people that participate in these trials go through for their approval in the review. No problems there, apparently. If the citizens of this state or the legislature have

some difficulties with the way this whole process works, we have an avenue before us. We can talk to our federal delegation. We can communicate with the FDA. We can talk to the justice department.

Do we want to impose on the Health and Human Services Department this new assignment on top of everything else that they are already dealing with? Remember, as was touched on in a previous debate from the previous bill before us, we have a Part 2 budget coming that involves a fairly dramatic redesign of some drug benefits. We have changes in the federal law in the Medicare Part D drug benefits that the folks in the Department of Health and Human Services are going to be dealing with for the rest of the year in trying to develop some type of wrap-around. We've given them several assignments in the previous session that have dealt with looking into the pharmaceutical industry around advertising and promotional costs. In this session they have already come before us and asked us to postpone and delay some of the deadlines from some of the requirements that we had asked them to carry out in previous assignments dealing pharmaceutical advertising. They said, 'We are overwhelmed. We're not ready. We don't have the ability to do it all. Would you delay it? Would you give us an extension?' The Health and Human Services Committee heard that and granted that extension. To now lay on top of them this initiative and to jump into this arena seems, to me, unreasonable, unwise, and I hope you reject it and vote against the pending motion.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Mayo.

Senator **MAYO:** Thank you, Madame President, ladies and gentlemen of the Senate. I would urge that you support the majority report, which is an Ought to Pass report. Much of what the good Senator from Hancock, Senator Rosen, has stated I will not necessarily disagree with. However, there is one item that he neglected to state and that is that the Department of Health and Human Services did not speak in opposition to this bill. It said that it could handle what is being asked without an appropriation, within existing resources, both financial and personnel. There are going to be a couple of others coming to us on this subject, maybe the Health and Human Services Committee will be discussing one of these this afternoon. They come to us as the result of what has taken place around the country with clinical trials, or the lack thereof of adequate clinical trials, on a couple of drugs that we have heard about in 2005.

There are problems with the clinical trials. I think, and obviously a majority of the committee, that there are problems. I think you would not have before you this morning a majority report if the committee felt that we were placing an undue burden upon the Department of Health and Human Services or if they had so indicated. Neither of those matters is really on top of this particular issue. I would again urge you to accept the majority committee report, which is Ought to Pass. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER**: Thank you, Madame President, ladies and gentlemen of the Senate. I would simply remind you that the landscape around this chamber and across the street to the Department of Health and Human Services is littered with the promises of this department that they have failed to deliver on. I would further suggest to you that when they say they can do something within existing resources, at least the last three budgets, whether they are supplemental or biennial, have holes created in them because the department said they could deliver certain savings to us. I have seen little from this department in terms of its ability to deliver on promises. I suspect, first of all, that they can't do it within existing resources. I think the points made by the good Senator from Hancock, Senator Rosen, are entirely appropriate. This agency has been in trouble for some time. I understand the desire to be able to have clinical trials that would ensure the safety of all of us. I think that is a role best left for the federal government and the FDA. While we have had a few clinical trials that have spotlighted difficulties with them in 2005, I think we all realize that there have been follow-ups with respect to those trials. I think we're best to leave these matters where they can best be handled rather than trying to push them over to the Department of Health and Human Services in the State of Maine. Thank you very much, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Mayo.

Senator **MAYO**: Thank you, Madame President, ladies and gentlemen of the Senate. I think the remarks of the good Senator from Cumberland, Senator Turner, are out of line and inappropriate at this time. They would have been very appropriate in the previous legislature, the 121st legislature. We are dealing with a new department with new personnel. The problems to which he referred, I agree that there are problems, but they came to this department and the current people at the top level. The current commissioner is trying, as the people working with him, to correct what has been placed there, and what they found on their plates, when they came to their positions. I would have agreed 150% with what the good Senator said had it been stated in this chamber two years ago, but today I do not think that it holds true. Thank you, ladies and gentlemen.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER**: Thank you, Madame President. I would disagree with the comments from the good Senator from Sagadahoc, Senator Mayo. I think the comments are appropriate. If you wanted to modify this resolve to say, 'Why don't you begin paying your bills to providers in an accurate fashion?' that might be a resolve that would be useful to this chamber and to the department. Thank you very much, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN**: Thank you, Madame President. To the good Senator from Cumberland, Senator Turner, I just want to remind him that the requirement for the computer came from the administration in Washington. They gave us \$25 million. We had to pay 10%. We're still trying to recover from that mess.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Rosen.

Senator **ROSEN**: Thank you, Madame President and members of the Senate. In an effort to bring it home, the policy that you are being asked to adopt in this Resolve is that the State of Maine will now inject itself in this entire arena called clinical trials for pharmaceutical testing which is used in the development of pharmaceutical drugs, products, or whatever that come out to the public. I'm not aware of any other state that has passed legislation that is going to take this step. Maine certainly has been out front in a variety of different efforts dealing with the pharmaceutical industry, most in a confrontational manner. We all know those take resources. We all know those take time. We have potholes to fill, programs to deliver upon, and the day-in day-out responsibilities of government that we have already assigned to many of these people. This initiative did not come from the department. They did not ask for it. They will step up, I'm sure, and do whatever the legislature imposes upon them. This is coming from us to them.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Sagadahoc, Senator Mayo to Accept the Majority Ought to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#148)

YEAS: Senators: BARTLETT, BRENNAN, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, TURNER, WESTON, WOODCOCK

ABSENT: Senators: BROMLEY, NUTTING

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **MAYO** of Sagadahoc to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence. **PREVAILED.**

READ ONCE.

Committee Amendment "A" (H-381) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Improve the Water Quality of Hall Pond in Paris"

H.P. 306 L.D. 421

Majority - **Ought to Pass** (8 members)

Minority - **Ought Not To Pass** (4 members)

Tabled - May 20, 2005, by Senator **BRYANT** of Oxford

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**

(In House, May 19, 2005, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, May 20, 2005, Reports **READ**.)

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Woodcock.

Senator **WOODCOCK:** Thank you, Madame President, men and women of the Senate. This bill is fairly straight forward, actually. Hall Pond is a very shallow pond, at 25 feet, located in the town of Paris. They are requesting, through this bill, that the use of ATVs, snowmobiles, and watercraft be banned from the pond. Hall Pond is the water supply for the town of Hebron. Located in Hebron, of course, is Hebron Academy. There is some concern for the future in terms of pollution, as it relates to that pond, from gasoline-powered engines. The local sportsmen's club is supportive of this bill. It does not ban fishing. It does not ban the use of electric motors to do so. The board of selectmen in the town of Paris voted unanimously to support this bill. I believe this is an issue of the local community wanting to protect its water supply and I think we should pass it. In so doing, I would ask you to vote against the motion that is before us so we might go on to accept the majority report.

Same Senator requested a Division.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Bryant.

Senator **BRYANT:** Thank you, Madame President, men and women of the Senate. I would say that trying to find a balance for the Great Ponds in the State of Maine is a difficult issue when you talk about all the opportunities there are. I think with this pond they had a public hearing. They restricted motor vehicles, as far as cars and trucks, for winter use. I think there are other ways that the water department can try to improve the water quality. There is problem with the water quality currently. This is a preventive approach. We're trying to find a balance. I think there are other things that they can do. We've stopped trucks and cars from going onto the ice. I believe that we have to have reasonable criteria. If we go down this road, where every water department in the State of Maine wants to restrict recreational activities on their water body, which they all do, and we don't

have strict criteria on how to deal with that, I think we're making a mistake. I'd ask you to accept the ought not to pass motion.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hastings.

Senator **HASTINGS:** Thank you, Madame President, ladies and gentlemen of the Senate. The town of Paris is in my district. The town of Hebron isn't. What really brings to bear here is that is a matter of local interest. I think this is a matter that the people in the local area know best. The protection of public water supplies should be of utmost importance to all of us here in this Senate. What have we here? We have the town of Hebron drawing this water from the town of Paris. We have the town of Paris, through its board of selectmen and the hunting and fishing club, which has the most interest in this, all supporting the protection of this particular water supply. I understand that there is also interest from the Inland Fisheries and Wildlife Committee, but the overriding concern has to be the protection of the water supply. Let's pay attention. Let's listen to what those local people in Paris are saying. They know what is best for this water supply. They have conceded that Hebron should have the benefit of this for their water supply. I urge you, strongly, to vote against the pending motion and support the Ought to Pass motion once made. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Savage.

Senator **SAVAGE:** Thank you, Madame President, men and women of the Senate. The good Senator from Oxford, Senator Bryant, said there is no problem now. I've been here 10 years now and it seems to me we're always being reactive. Why not, on this issue, be proactive?

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Bryant.

Senator **BRYANT:** Thank you, Madame President, men and women of the Senate. I think that we need to be clear. If you're going to restrict the access to the Great Ponds in the State of Maine on every issue of drinking water, and we've dealt with this a number of times within our committee, you have to have strict criteria and you have to follow the same path all the time. You can't pick one pond and restrict access and not do it to another one. A number members of the committee are okay with doing just this one or that one. You are not going to be able to do that. You are going to cause uncertainty out there for the general public and all the water districts are going to want to restrict access to the Great Ponds. That's one piece that they feel strongly about. It's our job to have a balance. I think the balance is to keep the cars and trucks off there and restrict more to intake part of that lake. I think there are other things they can do without just banning everything. That's where I feel we ought to be. Thank you.

On motion by Senator **HASTINGS** of Oxford, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Oxford, Senator Bryant to Accept the Minority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#149)

YEAS: Senators: BARTLETT, BRENNAN, BRYANT, COWGER, DAMON, DIAMOND, GAGNON, HOBBS, MARTIN, MAYO, MITCHELL, PERRY, RAYE, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, ROSEN, SAVAGE, TURNER, WESTON, WOODCOCK

ABSENT: Senators: BROMLEY, NUTTING, SNOWE-MELLO

18 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **BRYANT** of Oxford to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

Senator **SCHNEIDER** of Penobscot was granted unanimous consent to address the Senate off the Record.

All matters thus acted upon were ordered sent down forthwith for concurrence.

On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**, to Monday, May 23, 2005, at 10:00 in the morning, in memory of and lasting tribute to Jeanne Clifford Delahanty of Auburn.